HONOURABLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No. 32539 of 1998

DATE: 21-02-2006

Between:

The Depot Manager,

A.P.S.R.T.C., Falaknuma Depot,

Hyderabad. .. Petitioner

AND

T. Kondal Reddy, Conductor,

A.P.S.R.T.C. Bus Depot, Jeedimetla, Hyderabad,

R/o. House No.10-70/1, Pragathinagar, P & T Colony,

Dilsukhnagar, Hyderabad & another

.. Respondents

HONOURABLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.32539 OF 1998

ORDER:

This writ petition has been filed by the Depot Manager, A.P.S.R.T.C., Falaknuma Depot, Hyderabad, to quash the order of the Labour Court, A.P.,

Hyderabad, dated
17-11-1997 made in I.D. No.59/94 published on 5-1-1998 setting aside the order of removal of 1st respondent from service and directing his reinstatement into service with continuity of service, attendant benefits and full back wages as illegal, invalid and without jurisdiction.

The case of the petitioner-A.P. State Road Transport Corporation (for short 'the Corporation') is that that the
1st respondent is employed as Conductor in the Corporation and was attached to Falaknuma Depot. The petitioner states that while the 1st respondent was on duty in Bus No.4586 on route Jahangir Peer Darga, a check was exercised at stage No.11 at about 20-10 hours on 04-07-1993 and it was found that out of 26 passengers in the bus, the 1st respondent failed to collect fare and issue tickets to 25 passengers who boarded the bus at stage No.12 and were alighting the bus without tickets, and the 1st respondent also failed to close the tray numbers against stage No.11. Therefore, charge sheet dated 12-07-1993 was issued to the 1st respondent to which he submitted his explanation denying the charges levelled against him. An enquiry was conducted, and as the charges levelled against him were proved, the 1st respondent was removed from service by order dated 18-11-1993 against which he filed an appeal before the appellate authority which rejected the same on 25-04-1994. Aggrieved by the same,
the 1st respondent filed I.D. No.59/94 before the Labour Court-I, A.P., Hyderabad-2nd respondent, and the Labour Court held that the explanation given by the 1st respondent is well acceptable and accordingly by the impugned order directed the Corporation to reinstate the 1st respondent into service with continuity of service, attendant benefits and full back wages. Hence the present writ petition to quash the same.

The 1st respondent filed affidavit in W.V.M.P. supporting the impugned award and denying the charges levelled against him stating that he had no intention to knock away the revenue of the Corporation. He states that on the intervening night of 4-7-1993 because of compelling circumstances of misbehaviour and threats given by the passengers, he could not issue tickets and collect fare from them. He states that in spite of his request, the passengers (*phakeers*), who were in drunken condition, did not tender the fare and tried to beat him, and they even slapped and forced him to move the bus. He further states that the said passengers along with villagers at stage No.11 assaulted the checking officials and damaged their vehicle (Jeep), and this is evident from the fact that the checking officials lodged a report with Police Station Kottur, who registered the same as Crime No. 90 of 1993, which was taken on file of the Munsif Magistrate, Shadnagar as
C.C. No.57 of 1994, under Sections 341, 186 and 427 of I.P.C., hence he is not at fault for not issuing tickets and collecting fare from the said passengers, and

therefore, the charges levelled against him are not tenable, and the Labour Court had rightly set aside the order of removal and reinstated him into service, and no interference is called for therewith.

Heard the learned counsel for the parties and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of *certiorari* are limited to – *firstly* to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, *secondly* correct errors of law apparent on the face of the record, and *thirdly* correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason.

In ***Surya Dev Rai v. Ram Chander Rai*****,** the Apex Court held as under:

> "Certiorari, under Art.226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted
> (i) without jurisdiction – by assuming jurisdiction where there exists none, or
> (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice."

In ***Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union & another,*** the Apex Court held that this Court has no power to re-appreciate the evidence in exercise of its power under Article 226 of the Constitution of India.

From the above authoritative pronouncements of the Apex Court, it is clear that this Court shall not act as an appellate authority and reappraise the evidence while exercising *certiorari* jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The charges levelled against the 1st respondent are as under:

1. For having failed to observe the rule issue and start, which constitutes misconduct in terms of Regulation No.28(vi-a) of APSRTC Employees (Conduct) Regulations, 1963.

2. For having failed to collect fare and issue tickets to twenty five passengers found alighting without tickets at Yelminerva who boarded the bus Jahangir Peer Darga, ex-stages 12 to 11, which constitutes misconduct in terms of Regulation No.28 (xxxii) of APSRTC Employees Conduct Regulations, 1963.

3. For having failed to close the tray numbers against stage No.11, which constitutes misconduct in terms of Regulation No.28 (xxxii) of APSRTC Employees Conduct Regulations, 1963.

A perusal of the impugned award makes it clear that the passengers (*phakeers*), who were in drunken state, have boarded the bus, and though the 1st respondent requested them to give fare and collect tickets, they have threatened and slapped and forced him to move the bus, and at stage No.11 when the check was exercised, they have even assaulted the checking officials and damaged their jeep, and this is evident from the fact that the checking officials lodged a complaint with Police Kottur, who registered the same as Crime No. 90 of 1993, which was taken on file of the Munsif Magistrate, Shadnagar as C.C. No.57 of 1994, under Sections 341, 186 and 427 of I.P.C. This fact is not controverted by the Corporation. Though the 1st respondent was duty bound to issue tickets and collect fare, but he could not do so because of the threats administered by the passengers. It is not a case where the 1st respondent had collected the fare and did not issue the tickets. Because of compelling circumstances, the 1st respondent could not issue and collect fare from the passengers. The Labour Court having regard to the circumstances and situation which prevailed and prevented the 1st respondent from issuing tickets to the passengers, had rightly ordered his reinstatement into service with consequential benefits, and more so when the intention of the 1st respondent in not issuing the tickets to the passengers was not to knock away the revenue of the Corporation.

For the aforementioned reasons, I am not inclined to accept the

contentions urged by the learned counsel for the Corporation in support of the writ petition, and interfere with the discretion exercised by the Labour Court, more so when the petitioner failed to point out any jurisdictional error or errors of law apparent on the face of the record or the findings are based on suspicion, conjectures and surmises, in the impugned award setting aside the order of removal and directing the Corporation to reinstate the 1st respondent into service with continuity of service, attendant benefits and full back wages.

The writ petition is devoid of merits and is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.

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N.V. RAMANA, J

Date: 21st February, 2006

PV/KSR